



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed September 30, 2015, under Wis. Admin. Code § DHS 10.55, to review a decision by the Care Wisconsin First, Inc. ["CWF"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on November 5, 2015.

The issue for determination is whether petitioner meets the Nursing Home Level of Care ["LOC"] eligibility requirement for the Wisconsin MA Partnership program.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

BY: [REDACTED], Registered Nurse ["RN"], Long Term Functional Screen
Specialist


Care Wisconsin First, Inc
2802 International Lane
Madison, WI 53704-3124

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]; 49 years old) is a resident of Dane County, Wisconsin.

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2. Petitioner has diagnoses of morbid obesity (524 pounds on December 11, 2014; testimony was that he now weighs 361 pounds), diabetes mellitus type II, obesity, depression, Asperger's Syndrome, asthma, and hypertension; he is his own person, lives alone independently (which he prefers) in an apartment complex, and manages his money and medications independently. Exhibit #1.
 3. Petitioner can bath himself but uses a shower chair, needs a caregiver present during transfers on/off the shower chair (he has fallen in the shower), and needs assistance washing feet and lower extremities; he can dress himself; he is independent in eating; he can ambulate (uses a cane to transfer in/out of bed) and uses a wheelchair only when he is outside of his home; he can toilet himself but must lie on the bed to clean himself after a bowel movement, is unable to clean himself thoroughly, and has had several instances of incontinence of bowel and occasional uncontrolled diarrhea (he is not able to clean his rugs and floors of diarrhea); he is independent with transfers; he is independent with grocery shopping and can prepare simple meals; he is independent with medication management; he is independent with money management (his parents often lend him money); he needs weekly assistance with laundry; he uses public transportation to visit the library, food pantry, and for shopping; he has some knee and back problems. Exhibit #1.
 4. A *Long Term Care Functional Screen Report* completed on September 10, 2015 concluded that petitioner had a non-nursing home LOC. Exhibit #1.
 5. A second *Long Term Care Functional Screen Report* completed in October 6, 2015 also concluded that petitioner had a non-nursing home LOC. Exhibit #1.

DISCUSSION

The Wisconsin MA Partnership program is a comprehensive waiver program integrating health and long term support services for people who are elderly or disabled. Services are delivered in the participant's home or a setting of his or her choice. Through team based care management, the participant, his or her physician, nurses, and social workers together develop a care plan and coordinate all service delivery. *Medicaid Eligibility Handbook* ["MEH"] 30.1; See also, Wis. Stat. § 49.45(32) (2013-14).

An individual must be found functionally eligible at the Nursing Home LOC to be eligible for Partnership. MEH 30.1 & 30.4. There are several ways to meet the Nursing Home LOC depending on a person's ability to perform Activities of Daily Living ["ADLs"] and Instrumental ADLs ["IADLs"]. Wis. Admin. Code § DHS 10.33(2)(c) (December 2013); See also, Wis. Stat. § 46.286(1)(a)1m. (2013-14).

As reflected in the above *Findings of Fact*, petitioner does not meet the Nursing Home LOC. He can perform most all Activities of Daily Living ["ADLs"] and Instrumental ADLs ["IADLS"] independently. He does need some help with bathing, cleaning himself after a bowel movement, house cleaning, and laundry -- but he clearly does not meet the Nursing Home LOC.

CONCLUSIONS OF LAW

For the reasons discussed above, petitioner does not meet the Nursing Home LOC eligibility requirement for the Wisconsin MA Partnership program.

NOW, THEREFORE, it is

ORDERED

that the petition for review herein be and the same is hereby DISMISSED.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

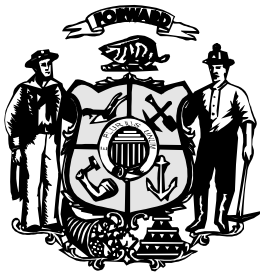
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 16th day of November, 2015

\sSean P. Maloney
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on November 16, 2015.

Care Wisconsin First, Inc
Office of Family Care Expansion
Health Care Access and Accountability